

Message Text

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ORIGIN EUR-25

INFO OCT-01 ISO-00 H-03 CIAE-00 PM-07 INR-10 L-03 NEA-10

NSAE-00 PA-04 RSC-01 PRS-01 SPC-03 USIA-15 TRSE-00

SAJ-01 SS-20 NSC-10 ACDA-19 DODE-00 /133 R

DRAFTED BY EUR/RPM:GCHRISTIANSON

APPROVED BY EUR/RPM:EREHFELD

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R 152238Z OCT 73

FM SECSTATE WASHDC

TO USMISSION NATO

INFO USNMR SHAPE

UNCLAS STATE 204307

E.O. 11652: N/A

TAGS: NATO, MOPS, PFOR

SUBJECT: WAR POWERS BILL

REF: USNATO 4889

1. FOLLOWING IS FULL TEXT OF SUBJECT BILL AS AGREED IN
HOUSE/SENATE CONFERENCE COMMITTEE AND PASSED BY SENATE AND
HOUSE.

2. QUOTE
SHORT TITLE

SECTION 1. THIS JOINT RESOLUTION MAY BE CITED AS THE "WAR
POWERS RESOLUTION".

PURPOSE AND POLICY

SECTION 2. (A) IT IS THE PURPOSE OF THIS JOINT RESOLUTION
TO FULFILL THE INTENT OF THE FRAMERS OF THE CONSTITUTION OF
THE UNITED STATES AND INSURE THAT THE COLLECTIVE JUDGMENT
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OF BOTH THE CONGRESS AND THE PRESIDENT WILL APPLY TO THE
INTRODUCTION OF UNITED STATES ARMED FORCES INTO HOSTILITIES,
OR INTO SITUATIONS WHERE IMMINENT INVOLVEMENT IN HOSTILITIES
IS CLEARLY INDICATED BY THE CIRCUMSTANCES, AND TO THE CON-

TINUED USE OF SUCH FORCES IN HOSTILITIES OR IN SUCH SITUATIONS.

(B) UNDER ARTICLE I, SECTION 8, OF THE CONSTITUTION, IT IS SPECIFICALLY PROVIDED THAT THE CONGRESS SHALL HAVE THE POWER TO MAKE ALL LAWS NECESSARY AND PROPER FOR CARRYING INTO EXECUTION, NOT ONLY ITS OWN POWERS BUT ALSO ALL OTHER POWERS VESTED BY THE CONSTITUTION IN THE GOVERNMENT OF THE UNITED STATES, OR IN ANY DEPARTMENT OR OFFICER THEREOF.

(C) THE CONSTITUTIONAL POWERS OF THE PRESIDENT AS COMMANDER-IN-CHIEF TO INTRODUCE UNITED STATES ARMED FORCES INTO HOSTILITIES, OR INTO SITUATIONS WHERE IMMINENT INVOLVEMENT IN HOSTILITIES IS CLEARLY INDICATED BY THE CIRCUMSTANCES, ARE EXERCISED ONLY PURSUANT TO (1) A DECLARATION OF WAR, (2) SPECIFIC STATUTORY AUTHORIZATION, OR (3) A NATIONAL EMERGENCY CREATED BY ATTACK UPON THE UNITED STATES, ITS TERRITORIES OR POSSESSIONS, OR ITS ARMED FORCES.

CONSULTATION

SEC. 3. THE PRESIDENT IN EVERY POSSIBLE INSTANCE SHALL CONSULT WITH CONGRESS BEFORE INTRODUCING UNITED STATES ARMED FORCES INTO HOSTILITIES OR INTO SITUATIONS WHERE IMMINENT INVOLVEMENT IN HOSTILITIES IS CLEARLY INDICATED BY THE CIRCUMSTANCES, AND AFTER EVERY SUCH INTRODUCTION SHALL CONSULT REGULARLY WITH THE CONGRESS UNTIL UNITED STATES ARMED FORCES ARE NO LONGER ENGAGED IN HOSTILITIES OR HAVE BEEN REMOVED FROM SUCH SITUATIONS.

REPORTING

SEC. 4. (A) IN THE ABSENCE OF A DECLARATION OF WAR, IN ANY CASE IN WHICH UNITED STATES ARMED FORCES ARE INTRODUCED --
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(1) INTO HOSTILITIES OR INTO SITUATIONS WHERE IMMINENT INVOLVEMENT IN HOSTILITIES IS CLEARLY INDICATED BY THE CIRCUMSTANCES;

(2) INTO THE TERRITORY, AIRSPACE OR WATERS OF A FOREIGN NATION, WHILE EQUIPPED FOR COMBAT, EXCEPT FOR DEPLOYMENTS WHICH RELATE SOLELY TO SUPPLY, REPLACEMENT, REPAIR, OR TRAINING OF SUCH FORCES; OR

(3) IN NUMBERS WHICH SUBSTANTIALLY ENLARGE UNITED STATES ARMED FORCES EQUIPPED FOR COMBAT ALREADY LOCATED IN A FOREIGN NATION;
THE PRESIDENT SHALL SUBMIT WITHIN 48 HOURS TO THE SPEAKER

HE PRESIDENT SHALL SUBMIT WITHIN 48 HOURS TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO THE PRESIDENT PRO TEMPORE OF THE SENATE A REPORT, IN WRITING, SETTING FORTH--

(A) THE CIRCUMSTANCES NECESSITATING THE INTRODUCTION OF UNITED STATES ARMED FORCES;

(B) THE CONSTITUTIONAL AND LEGISLATIVE AUTHORITY UNDER WHICH SUCH INTRODUCTION TOOK PLACE; AND

(C) THE ESTIMATED SCOPE AND DURATION OF THE HOSTILITIES OR INVOLVEMENT.

(B) THE PRESIDENT SHALL PROVIDE SUCH OTHER INFORMATION AS THE CONGRESS MAY REQUEST IN THE FULFILLMENT OF ITS CONSTITUTIONAL RESPONSIBILITIES WITH RESPECT TO COMMITTING THE NATION TO WAR AND TO THE USE OF UNITED STATES ARMED FORCES ABROAD.

(C) WHENEVER UNITED STATES ARMED FORCES ARE INTRODUCED INTO HOSTILITIES OR INTO ANY SITUATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE PRESIDENT SHALL, SO LONG AS SUCH ARMED FORCES CONTINUE TO BE ENGAGED IN SUCH HOSTILITIES OR SITUATION, REPORT TO THE CONGRESS PERIODICALLY ON THE STATUS OF SUCH HOSTILITIES OR SITUATION AS WELL AS ON THE SCOPE AND DURATION OF SUCH HOSTILITIES OR SITUATION, BUT IN NO EVENT SHALL HE UNCLASSIFIED

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REPORT TO THE CONGRESS LESS OFTEN THAN ONCE EVERY SIX MONTHS.

CONGRESSIONAL ACTION

SEC. 5 (A) EACH REPORT SUBMITTED PURSUANT TO SECTION 4(A)(1) SHALL BE TRANSMITTED TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO THE PRESIDENT PRO TEMPORE OF THE SENATE ON THE SAME CALENDAR DAY. EACH REPORT SO TRANSMITTED SHALL BE REFERRED TO THE COMMITTEE ON FOREIGN AFFAIRS OF THE HOUSE OF REPRESENTATIVES AND TO THE COMMITTEE ON FOREIGN RELATIONS OF THE SENATE FOR APPROPRIATE ACTION. IF, WHEN THE REPORT IS TRANSMITTED, THE CONGRESS HAS ADJOURNED SINE DIE OR HAS ADJOURNED FOR ANY PERIOD IN EXCESS OF THREE CALENDAR DAYS, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE, IF THEY DEEM IT ADVISABLE (OR IF PETITIONED BY AT LEAST 30 PERCENT OF THE MEMBERSHIP OR THEIR RESPECTIVE HOUSES) SHALL JOINTLY REQUEST THE PRESIDENT TO CONVENE CONGRESS IN ORDER THAT IT MAY CONSIDER THE REPORT AND TAKE APPROPRIATE ACTION PURSUANT TO THIS

SECTION.

(B) WITHIN SIXTY CALENDAR DAYS AFTER A REPORT IS SUBMITTED OR IS REQUIRED TO BE SUBMITTED PURSUANT TO SECTION 4(A)(1), WHICHEVER IS EARLIER, THE PRESIDENT SHALL TERMINATE ANY USE OF UNITED STATES ARMED FORCES WITH RESPECT TO WHICH SUCH REPORT WAS SUBMITTED (OR REQUIRED TO BE SUBMITTED), UNLESS THE CONGRESS (1) HAS DECLARED WAR AS (SIC) HAS ENACTED A SPECIFIC AUTHORIZATION FOR SUCH USE OF UNITED STATES ARMED FORCES, (2) HAS EXTENDED BY LAW SUCH SIXTY-DAY PERIOD, OR (3) IS PHYSICALLY UNABLE TO MEET AS A RESULT OF AN ARMED ATTACK UPON THE UNITED STATES. SUCH SIXTY-DAY PERIOD SHALL BE EXTENDED FOR NOT MORE THAN AN ADDITIONAL THIRTY DAYS IF THE PRESIDENT DETERMINES AND CERTIFIES TO THE CONGRESS IN WRITING THAT UNAVOIDABLE MILITARY NECESSITY RESPECTING THE SAFETY OF UNITED STATES ARMED FORCES REQUIRES THE CONTINUED UNCLASSIFIED

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USE OF SUCH ARMED FORCES IN THE COURSE OF BRINGING ABOUT A PROMPT REMOVAL OF SUCH FORCES.

(C) NOTWITHSTANDING SUBSECTION (B), AT ANY TIME THAT UNITED STATES ARMED FORCES ARE ENGAGED IN HOSTILITIES OUTSIDE THE TERRITORY OF THE UNITED STATES, ITS POSSESSIONS AND TERRITORIES WITHOUT A DECLARATION OF WAR OR SPECIFIC STATUTORY AUTHORIZATION, SUCH FORCES SHALL BE REMOVED BY THE PRESIDENT IF THE CONGRESS SO DIRECTS BY CONCURRENT RESOLUTION.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

SEC. 6 (A) ANY JOINT RESOLUTION OR BILL INTRODUCED PURSUANT TO SECTION 5(B) AT LEAST THIRTY CALENDAR DAYS BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD SPECIFIED IN SUCH SECTION SHALL BE REFERRED TO THE COMMITTEE ON FOREIGN AFFAIRS OF THE HOUSE OF REPRESENTATIVES OR THE COMMITTEE ON FOREIGN RELATIONS OF THE SENATE, AS THE CASE MAY BE, AND SUCH COMMITTEE SHALL REPORT ONE SUCH JOINT RESOLUTION OR BILL, TOGETHER WITH ITS RECOMMENDATIONS, NOT LATER THAN TWENTY-FOUR CALENDAR DAYS BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD SPECIFIED IN SUCH SECTION, UNLESS SUCH HOUSE SHALL OTHERWISE DETERMINE BY THE YEAS AND NAYS.

(B) ANY JOINT RESOLUTION OR BILL SO REPORTED SHALL BECOME THE PENDING BUSINESS OF THE HOUSE IN QUESTION (IN THE CASE OF THE SENATE THE TIME FOR DEBATE SHALL BE EQUALLY DIVIDED BETWEEN THE PROPONENTS AND

THE OPPONENTS), AND SHALL BE VOTED ON WITHIN THREE CALENDAR DAYS THEREAFTER, UNLESS SUCH HOUSE SHALL OTHERWISE DETERMINE BY YEAS AND NAYS.

(C) SUCH A JOINT RESOLUTION OR BILL PASSED BY ONE HOUSE SHALL BE REFERRED TO THE COMMITTEE OF THE OTHER HOUSE NAMED IN SUBSECTION (A) AND SHALL BE REPORTED OUT NOT LATER THAN FOURTEEN CALENDAR DAYS BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD SPECIFIED
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IN SECTION 5(B). THE JOINT RESOLUTION OR BILL SO REPORTED SHALL BECOME THE PENDING BUSINESS OF THE HOUSE IN QUESTION AND SHALL BE VOTED ON WITHIN THREE CALENDAR DAYS AFTER IT HAS BEEN REPORTED, UNLESS SUCH HOUSE SHALL OTHERWISE DETERMINE BY YEAS AND NAYS.

(D) IN THE CASE OF ANY DISAGREEMENT BETWEEN THE TWO HOUSES OF CONGRESS WITH RESPECT TO A JOINT RESOLUTION OR BILL PASSED BY BOTH HOUSES, CONFEREES SHALL BE PROMPTLY APPOINTED AND THE COMMITTEE OF CONFERENCE SHALL MAKE AND FILE A REPORT WITH RESPECT TO SUCH RESOLUTION OR BILL NOT LATER THAN FOUR CALENDAR DAYS BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD SPECIFIED IN SECTION 5(B). IN THE EVENT THE CONFEREES ARE UNABLE TO AGREE WITHIN 48 HOURS, THEY SHALL REPORT BACK TO THEIR RESPECTIVE HOUSES IN DISAGREEMENT. NOTWITHSTANDING ANY RULE IN EITHER HOUSE CONCERNING THE PRINTING OF CONFERENCE REPORTS IN THE RECORD OR CONCERNING ANY DELAY IN THE CONSIDERATION OF SUCH REPORTS, SUCH REPORT SHALL BE ACTED ON BY BOTH HOUSES NOT LATER THAN THE EXPIRATION OF SUCH SIXTY-DAY PERIOD.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7 (A) ANY CONCURRENT RESOLUTION INTRODUCED PURSUANT TO SECTION 5(C) SHALL BE REFERRED TO THE COMMITTEE ON FOREIGN AFFAIRS OF THE HOUSE OF REPRESENTATIVES OR THE COMMITTEE ON FOREIGN RELATIONS OF THE SENATE, AS THE CASE MAY BE, AND ONE SUCH CONCURRENT RESOLUTION SHALL BE REPORTED OUT BY SUCH COMMITTEE TOGETHER WITH ITS RECOMMENDATIONS WITHIN FIFTEEN CALENDAR DAYS, UNLESS SUCH HOUSE SHALL OTHERWISE DETERMINE BY THE YEAS AND NAYS.

(B) ANY CONCURRENT RESOLUTION SO REPORTED SHALL BECOME THE PENDING BUSINESS OF THE HOUSE IN QUESTION BECOME THE PENDING BUSINESS OF THE HOUSE IN QUESTION (IN THE CASE OF THE SENATE THE TIME FOR DEBATE SHALL BE EQUALLY DIVIDED BETWEEN THE PROPONENTS AND THE

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OPPONENTS) AND SHALL BE VOTED ON WITHIN THREE CALENDAR DAYS THEREAFTER, UNLESS SUCH HOUSE SHALL OTHERWISE DETERMINE BY YEAS AND NAYS.

(C) SUCH A CONCURRENT RESOLUTION PASSED BY ONE HOUSE SHALL BE REFERRED TO THE COMMITTEE OF THE OTHER HOUSE NAMED IN SUBSECTION (A) AND SHALL BE REPORTED OUT BY SUCH COMMITTEE TOGETHER WITH ITS RECOMMENDATIONS WITHIN FIFTEEN CALENDAR DAYS AND SHALL THEREUPON BECOME THE PENDING BUSINESS OF SUCH HOUSE AND SHALL BE VOTED UPON WITHIN THREE CALENDAR DAYS, UNLESS SUCH HOUSE SHALL OTHERWISE DETERMINE BY YEAS AND NAYS.

(D) IN THE CASE OF ANY DISAGREEMENT BETWEEN THE TWO HOUSES OF CONGRESS WITH RESPECT TO A CONCURRENT RESOLUTION PASSED BY BOTH HOUSES, CONFEREES SHALL BE PROMPTLY APPOINTED AND THE COMMITTEE OF CONFERENCE SHALL MAKE AND FILE A REPORT WITH RESPECT TO SUCH CONCURRENT RESOLUTION WITHIN SIX CALENDAR DAYS AFTER THE LEGISLATION IS REFERRED TO THE COMMITTEE OF CONFERENCE. NOTWITHSTANDING ANY RULE IN EITHER HOUSE CONCERNING THE PRINTING OF CONFERENCE REPORTS IN THE RECORD OR CONCERNING ANY DELAY IN THE CONSIDERATION OF SUCH REPORTS, SUCH REPORT SHALL BE ACTED ON BY BOTH HOUSES NOT LATER THAN SIX CALENDAR DAYS AFTER THE CONFERENCE REPORT IS FILED. IN THE EVENT THE CONFEREES ARE UNABLE TO AGREE WITHIN 48 HOURS, THEY SHALL REPORT BACK TO THEIR RESPECTIVE HOUSES IN DISAGREEMENT.

INTERPRETATION OF JOINT RESOLUTION

SEC. 8 (A) AUTHORITY TO INTRODUCE UNITED STATES ARMED FORCES INTO HOSTILITIES OR INTO SITUATIONS WHEREIN INVOLVEMENT IN HOSTILITIES IS CLEARLY INDICATED BY THE CIRCUMSTANCES SHALL NOT BE INFERRED --

(1) FROM ANY PROVISION OF LAW (WHETHER OR NOT IN EFFECT BEFORE THE DATE OF THE ENACTMENT OF THIS JOINT RESOLUTION), INCLUDING ANY PROVISION CONTAINED IN ANY APPROPRIATION ACT, UNLESS SUCH PROVISION SPECIFICALLY AUTHORIZES THE INTRODUCTION OF UNITED STATES ARMED FORCES INTO HOSTILITIES OR INTO SUCH SITUATIONS

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AND STATES THAT IT IS INTENDED TO CONSTITUTE SPECIFIC STATUTORY AUTHORIZATION WITHIN THE MEANING OF THIS JOINT RESOLUTION; OR

(2) FROM ANY TREATY HERETOFORE OR HEREAFTER

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SPECIFICALLY AUTHORIZING THE INTRODUCTION OF UNITED STATES ARMED FORCES INTO HOSTILITIES OR INTO SUCH SITUATIONS AND STATING THAT IT IS INTENDED TO CONSTITUTE SPECIFIC STATUTORY AUTHORIZATION WITHIN THE MEANING OF THIS JOINT RESOLUTION.

(B) NOTHING IN THIS JOINT RESOLUTION SHALL BE CONSTRUED TO REQUIRE ANY FURTHER SPECIFIC STATUTORY AUTHORIZATION TO PERMIT MEMBERS OF UNITED STATES ARMED FORCES TO PARTICIPATE JOINTLY WITH MEMBERS OF THE ARMED FORCES OF ONE OR MORE FOREIGN COUNTRIES IN THE HEADQUARTERS OPERATIONS OF HIGH-LEVEL MILITARY COMMANDS WHICH WERE ESTABLISHED PRIOR TO THE DATE OF ENACTMENT OF THIS JOINT RESOLUTION AND PURSUANT TO THE UNITED NATIONS CHARTER OR ANY TREATY RATIFIED BY THE UNITED STATES PRIOR TO SUCH DATE.

(C) FOR PURPOSES OF THIS JOINT RESOLUTION, THE TERM "INTRODUCTION OF UNITED STATES ARMED FORCES" INCLUDES THE ASSIGNMENT OF MEMBERS OF SUCH ARMED FORCES TO COMMAND, COORDINATE, PARTICIPATE IN THE MOVEMENT OF, OR ACCOMPANY THE REGULAR OR IRREGULAR MILITARY FORCES OF ANY FOREIGN COUNTRY OR GOVERNMENT WHEN SUCH MILITARY FORCES ARE ENGAGED, OR THERE EXISTS AN IMMINENT THREAT THAT SUCH FORCES WILL BECOME ENGAGED, IN HOSTILITIES.

(D) NOTHING IN THIS JOINT RESOLUTION --

(1) IS INTENDED TO ALTER THE CONSTITUTIONAL AUTHORITY OF THE CONGRESS OR OF THE PRESIDENT, OR THE PROVISIONS OF EXISTING TREATIES; OR

(2) SHALL BE CONSTRUED AS GRANTING ANY AUTHORITY TO THE PRESIDENT WITH RESPECT TO THE INTRODUCTION
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OF UNITED STATES ARMED FORCES INTO HOSTILITIES OR INTO SITUATIONS WHEREIN INVOLVEMENT IN HOSTILITIES IS CLEARLY INDICATED BY THE CIRCUMSTANCES WHICH AUTHORITY HE WOULD NOT HAVE HAD IN THE ABSENCE OF THIS JOINT RESOLUTION.

SEPARABILITY CLAUSE

SEC. 9 IF ANY PROVISION OF THIS JOINT RESOLUTION OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE REMAINDER OF THE JOINT RESOLUTION AND THE APPLICATION OF SUCH PROVISION TO ANY OTHER PERSON OR CIRCUMSTANCE SHALL NOT BE AFFECTED THEREBY.

EFFECTIVE DATE

SEC. 10. THIS JOINT RESOLUTION SHALL TAKE EFFECT ON
THE DATE OF ITS ENACTMENT. END QUOTE

3. GUIDANCE ON WAR POWERS BILL BEING SENT TO USNATO
AND ALL NATO CAPITALS SEPTEL. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 11 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, PRESIDENT, COMMITTEE MEETINGS, AMENDMENTS, UNDECLARED WAR, CENTRAL LEGISLATURE
Control Number: n/a
Copy: SINGLE
Draft Date: 15 OCT 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE204307
Document Source: ADS
Document Unique ID: 00
Drafter: EUR/RPM:GCHRISTIANSON
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731066/abqcejbq.tel
Line Count: 388
Locator: TEXT ON-LINE
Office: ORIGIN EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 8
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: USNATO 4889
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 17 AUG 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17-Aug-2001 by phillir0>; APPROVED <06 MAR 2002 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: WAR POWERS BILL
TAGS: MOPS, PFOR, US, NATO
To: NATO INFO USNMR SHAPE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005